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6 UNITED STATES DISTRICT COURT  
7 WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

8 MICHAEL R. MYERS,

9 Plaintiff,

10 v.

11  
12 GEORGE W. BUSH, *et al.*,

13 Defendants.

CASE NO. C09-0031RSL

ORDER REQUIRING MORE  
DEFINITE STATEMENT

14  
15 On January 8, 2009, plaintiff filed a Civil Rights Complaint Under 42  
16 U.S.C. § 1983 (Dkt. # 1). The complaint identifies between thirty-six and ninety-eight  
17 defendants, plus “John Does 1 to 100 inclusive.”<sup>1</sup> Plaintiff alleges that he has been the  
18 subject of constant surveillance since October 2004 and that he was “denied access”  
19 when he attempted to file complaints regarding the perceived harassment. In support of  
20 these allegations, plaintiff provides a one-page “Preliminary Statement” and a forty-two  
21 page diary or journal listing various events dating from December 2002 to December  
22 2008. Plaintiff asserts claims of (1) conspiracy to deny filing of a complaint,

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24 <sup>1</sup> It is difficult to determine how many defendants are named because plaintiff sometimes  
25 identifies the “defendant,” singular, as an employer, its officer(s) or employee(s), and its counsel.  
26 For example, plaintiff identifies one defendant as “Port of Seattle; Colleen E. Wilson, Police  
Chief; Craig R. Watson, Counsel.” The Clerk of Court entered only Colleen E. Wilson into the  
docket as a defendant, but it is possible that plaintiff also intended to sue the Port of Seattle  
and/or its counsel.

1 (2) intentional infliction of emotional distress, (3) denial of police protection, (4) wire  
2 tapping, (5) internet and electronic mail monitoring, (6) public harassment, (7) stalking,  
3 (8) [ ]reckless endangerment of a minor, and (9) loss of enjoyment and use of property.

4 Federal Rule of Civil Procedure 8(a)(2) requires “a short and plain  
5 statement of the claim showing that the pleader is entitled to relief.” For example, a  
6 claim of negligence is properly alleged as follows:

7 . . .

8 2. On January 1, 2008, in the Redmond Town Square parking lot,  
9 defendant negligently drove a motor vehicle against plaintiff.

10 3. As a result, plaintiff was physically injured, lost wages or income,  
11 suffered physical and mental pain, and incurred medical expenses  
12 of \$8,000.

13 Therefore plaintiff demands judgment against the defendant for \$10,000  
14 plus costs.

15 Fed. R. Civ. P., Form 11. As required by Rule 8, the claim is “short and plain,” and the  
16 allegations offered in support are “simple, concise, and direct.” Most importantly, this  
17 form of complaint informs defendant of the basis of the claim asserted against him: it  
18 identifies who is being sued, what defendant is alleged to have done, what the theory of  
19 liability is, and what relief is sought. The complaint filed by plaintiff on January 8,  
20 2009, on the other hand, is fashioned in such a way that defendants would have to guess  
21 what wrongs they are supposed to have committed and what plaintiff’s theory of  
22 liability is.

23 The complaint contains a number of seemingly irrelevant factual  
24 assertions that have no obvious connection to unlawful surveillance or the claims  
25 asserted in the complaint. For example, plaintiff alleges:  
26

1 April 2006; we received a letter from Mr. Dana Dick (Val-Vue Sewer  
2 District) offering 500.00 dollars to create a right of way along the rental  
3 house drive. This is the drive adjacent to Mr. Wright's property. I wrote  
back declining the offer.

4 August 21st, 2006, notice warning banner does not fade off to reveal log  
5 on screen as before. You need to select "OK" before being transferred to  
6 sign on screen.

7 October 12th 2006; just after arriving at the office Mr. Marrs enters the  
8 cubicle and without looking at anyone announces with a raised voice "this  
area has a lot of brain power." He then exits without looking at anyone.

9 June 2007; make comment to Rebecca Strickland about the fact that her  
10 TV is on at 3 AM or so. She states that she forgot to turn it off. I point  
11 out that she has a timer and should use it. She continues to leave TV on.

12 I notice that we are waking up at 3:30 AM most consistently. Both of us  
13 wake simultaneously. I feel completely awake and cannot return to sleep.

14 December 16th 2008, 7 PM renter Debra Rolfe calls house explaining that  
15 she is having furnace problems. The problem is a dead battery in the  
16 thermostat. I explain how to fix it and wait. She asked how I am and my  
17 response is fine. My tone is distant and the conversation ends. At 8 PM  
TIVO automatically depowers and does not repower for 59 minutes. The  
result was not recording the two shows I like at the 8 PM time slot.

18 Complaint at pp. 5, 7, 10, 20, 33, and 42. Of the many allegations that do have  
19 something to do with surveillance or monitoring, it is not clear whether plaintiff is  
20 actually asserting a claim related to such allegations. For example, plaintiff alleges:

21 November 8th 2008; while shopping at Fred Meyer (Renton) I receive one  
22 of the casual walk bys. The gentleman makes his presence known and  
23 smiles but I do not return the salutation. Upon check out, the self  
24 checkout terminal freezes for an unknown reason.

25 Complaint at p. 17. Fred Meyer and two of its managers are identified as defendants in  
26 the complaint. It is possible that this allegation is aimed at them, but it is also possible

1 that the unidentified gentleman is one of the John Doe defendants. Regardless of the  
2 identity of the wrongdoer, it is not clear whether plaintiff is asserting that public  
3 presence and a smile give rise to liability or whether this passage is offered to highlight  
4 the terminal problems. Finally, it is unclear which, if any, of the claims asserted in the  
5 complaint are supported by this allegation. Thus, despite the pages and pages of “facts”  
6 included in the complaint, defendants would have to guess – or initiate burdensome  
7 discovery to determine – who is being sued, for what relief, and on what theory.

8           In addition to asserting facts that are not specifically linked to defendants’  
9 legal liability, the complaint also asserts claims that have no supporting allegations. For  
10 instance, plaintiff alleges a “conspiracy to deny filing of a complaint” and “[r]eckless  
11 endangerment of a minor.” The Court is unable to discern any factual allegations  
12 tending to show an agreement or meeting of the minds by defendants to deny plaintiff  
13 access to the courts or linking any of the defendants to endangerment of a minor. Nor is  
14 it clear what relief plaintiff seeks from each defendant: all of the actions listed in the  
15 complaint under “Relief” are to be performed by the Department of Homeland Security,  
16 which is implicated in this complaint only because its Secretary has been identified as a  
17 defendant.

18           Prolix, confusing complaints such as the one[] plaintiff[] filed in this case  
19 impose unfair burdens on litigants and judges. As a practical matter, the  
20 judge and opposing counsel, in order to perform their responsibilities,  
21 cannot use a complaint such as the one plaintiff[] filed, and must prepare  
22 outlines to determine who is being sued for what. Defendants are then put  
23 at risk that their outline differs from the judge’s, that plaintiff[] will  
24 surprise them with something new at trial which they reasonably did not  
25 understand to be in the case at all, and that *res judicata* effects of  
26 settlement or judgment will be different from what they reasonably  
expected. . . . The judge wastes half a day in chambers preparing the  
“short and plain statement” which Rule 8 obligated plaintiff[] to submit.  
He then must manage the litigation without knowing what claims are made  
against whom. This leads to discovery disputes and lengthy trials,

1 prejudicing litigants in other cases who follow rules, as well as defendants  
2 in the case in which the prolix pleading is filed.

3 McHenry v. Renne, 84 F.3d 1172, 1179-80 (9th Cir. 1996).

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5 For all of the foregoing reasons, plaintiff is hereby ORDERED to file on  
6 or before **February 23, 2009**, an amended complaint which clearly and concisely  
7 explains how each defendant is alleged to have violated plaintiff's legal rights. The  
8 current form of the complaint – a list of defendants, followed by a list of claims,  
9 followed by a list of facts – is insufficient in that it does not notify defendants of the  
10 claims being asserted against them and the factual basis thereof. The key to filing an  
11 acceptable amended complaint will be linking plaintiff's factual allegations to a  
12 particular defendant and explaining how those facts support one or more of the claims  
13 asserted.

14 Defendants need not respond to the complaint filed on January 8, 2009,  
15 unless otherwise ordered by the Court.

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17 Dated this 20th day of January, 2009.

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19 Robert S. Lasnik  
20 United States District Judge  
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